



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office

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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
06/640,020	08/10/84	BRANDSTROM	A 25995-A

DELMBAUGH, GRAVES, DONOHUE AND RAYMOND  
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NEW YORK, NY 10112

EXAMINER	
FAN, J	
ART UNIT	PAPER NUMBER
1.21	15

DATE MAILED: 03/19/86

Below is a communication from the EXAMINER in charge of this application

COMMISSIONER OF PATENTS AND TRADEMARKS

ADVISORY ACTION

☒ THE PERIOD FOR RESPONSE:

- ☒ is extended to run 6 months from the date of the Final Rejection
- ☐ continues to run \_\_\_\_\_ from the date of the Final Rejection
- ☐ expires three months from the date of the final rejection or, as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date that the shortened statutory period for response expires as set forth above.

☐ Appellant's Brief is due in accordance with 37 CFR 1.192(a).

☒ Applicant's response to the final rejection, filed 3-3-86, has been considered with the following effect, but it is not deemed to place the application in condition for allowance:

- ☐ The proposed amendments to the claim and/or specification will not be entered and the final rejection stands because:
  - ☐ There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
  - ☐ They raise new issues that would require further consideration and/or search. (See Note).
  - ☐ They raise the issue of new matter. (See Note).
  - ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
  - ☐ They present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE:

- ☐ Newly proposed or amended claims \_\_\_\_\_ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.
  - ☐ Upon the filing of an appeal, the proposed amendment ☐ will be ☐ will not be, entered and the status of the claims in this application would be as follows:
 

Allowed claims: \_\_\_\_\_

Claims objected to: \_\_\_\_\_

Claims rejected: \_\_\_\_\_

However:

    - ☐ The rejection of claims \_\_\_\_\_ on references is deemed to be overcome by applicant's response.
    - ☐ The rejection of claims \_\_\_\_\_ on non-reference grounds only is deemed to be overcome by applicant's response.
  - ☐ The affidavit, exhibit or request for reconsideration has been considered but does not overcome the rejection.
  - ☐ The affidavit or exhibit will not be considered because applicant has not shown good and sufficient reasons why it was not earlier presented.
- ☐ The proposed drawing correction ☐ has ☐ has not been approved by the examiner.
- ☐ Other see attached sheet

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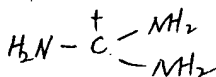
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The rejection of claims 1-4, 16-31 stands for the following reasons:

1. The evidence presented is not commensurate with the scope of the generic claim. A person skill in the art would expect that Li salt, Na salt, K salt, all mono-valent would behave in similar manner. The same rationale would apply to Mg and Ca salts. However, Ti salt,  $N+(R')_4$  salt and



salt are very different. The result of the latter three salts could not be extrapolated from the result of mono-valent or divalent salt.

2. The result of the declaration is not convincing since before six-month period, the stability of the neutral omeprazole is either about the same or even better than the corresponding Na, Mg. and Ca salts.

3. The statement at page 5 of the response "the Brandstrom declaration demonstrates that the half life of sodium omeprazol is more than 25 times as long as that of neutral omeprazole" is not understood.

This is not an invitation to ractify the deficiency of the affidavit in this application since the prosecution is closed in this case.

THE PERIOD FOR RESPONSE EXTENDED TO RUN SIX MONTHS FROM THE DATE OF THE FINAL REJECTION. Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a) accompanied by the proposed response and the appropriate fee. The date on which the response, the

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petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee.

Fan:wcg

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557-3920

3/18/86

*James T. Fan*  
JAMES T. FAN  
PRIMARY EXAMINER  
ART UNIT 121

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